

**REAL ESTATE CONTRACTUAL FORMS ADVISORY COMMITTEE  
MINUTES  
MAY 26, 2009**

**PRESENT:** Michael Gordon, Mary Pangman-Schmitt (Excused at 11:44 a.m.), Kevin King, Michael Holloway, Jennifer McGinnity, Scott Minter, Casey Clickner, and Peter Sveum

**EXCUSED:** Richard Hinsman

**STAFF:** Yolanda McGowan, Bureau Director; Peggy Wichmann, Legal Counsel; Kimberly Wood, Bureau Assistant

**GUESTS:** Cori Lamont, Wisconsin Realtors Association (WRA); Tracy Rucka, WRA; Kim Moermond, First Weber; Debbi Conrad, WRA

**CALL TO ORDER**

Peter Sveum, Chair, called the meeting to order at 10:09 a.m. A quorum of eight (8) members was present.

**ADOPTION OF AGENDA**

**MOTION:** Mary Pangman Schmitt moved, seconded by Casey Clickner, to approve the agenda as published. Motion carried unanimously.

**APPROVAL OF MINUTES (MARCH 24, 2009)**

**MOTION:** Kevin King moved, seconded by Scott Minter, to approve the minutes of March 24, 2009 as published. Motion carried unanimously.

**ADMINISTRATIVE REPORT**

Yolanda McGowan provided the Committee with Department updates. It was announced that Nicole Goodman has been transferred to the Office of Education and Examinations and that Kimberly Wood would be taking minutes for the Committee. The Committee was advised of staffing changes and informed on the status of the budget. Also introduced were two interns employed by the Division of Board Services, Rebecca McAtee and Ben Hanes. Yolanda McGowan then reviewed a summary of the comments provided on the Committee's evaluation forms from its last meeting.

## RECOMMENDATIONS FOR REVISION OF CONTRACTUAL FORMS

Kevin King, Wisconsin Realtors Association (WRA), reported to the Committee regarding recommendations made by the WRA Forms Committee. The Committee was then advised of the efforts being made by WRA to provide information to licensees about changes being made to the existing forms. Committee reviewed a copy of “Feedback/Suggestions for Revisions to the WB-11 Residential Offer to Purchase” provided by Kevin King.

### REVIEW AND REVISE DRAFT RESIDENTIAL OFFER TO PURCHASE (WB-11)

#### APPRAISAL CONTINGENCY

1. Page 6 – Line 314: Insert a check box before “APPRAISAL CONTINGENCY” and move to page 7 – line 333 (following “Financing Contingency”)
2. Page 6 – Lines 314-320: Amendments to language were made as follows: ☐ APPRAISAL CONTINGENCY: This Offer is contingent upon the Buyer or lender of Buyer’s choice ~~Buyer’s lender~~, having the Property appraised by a Wisconsin licensed or certified independent appraiser who issues an appraisal report, subsequent to the date of this Offer, indicateing a market value for the Property equal to or greater than the agreed upon purchase price. This contingency shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days of acceptance, delivers to Seller, and to listing broker if Property is listed, a copy of the appraisal report showing a value less than the agreed upon purchase price. If the appraisal report does not indicate a market value equal to or greater than the purchase price, Buyer may terminate this Offer by delivering to Seller, within \_\_\_\_\_ days of acceptance, a copy of the appraisal report and a notice of termination of the Offer. Otherwise this contingency shall be deemed satisfied.
3. Page 6 – Line 321: The Committee was comfortable with the concept of “Right to Cure” language insertion directly after the “APPRAISAL CONTINGENCY”, subject to further review, as follows. The Committee may revisit this topic to fine tune unaddressed concerns:
  - RIGHT TO CURE: Seller (shall) (shall not) [STRIKE ONE] have a right to cure. (Seller shall have a right to cure if no choice is indicated.) If Seller has the right to cure, Seller may satisfy this contingency by delivering a written amendment within \_\_\_\_\_ business days of receipt of the appraisal report changing the agreed upon purchase price to match the appraised value. This Offer shall be null and void if Buyer makes timely delivery of the appraisal report and : (1) Seller does not have a right to cure or (2) Seller has a right to cure but: a) Seller delivers notice that Seller will not change the price or b) Seller does not timely deliver the amendment changing the purchase price.

## CLOSING PRORATIONS

1. Page 2 – Line 100: Add a caution as outlined below: **CLOSING PRORATIONS:**  
The following items, if applicable, shall be prorated at closing, based upon date of closing values: real estate taxes, rents, prepaid insurance (if assumed), private and municipal charges, property owner's association assessments, fuel and \_\_\_\_\_.  
**CAUTION: Provide basis for fuel prorations if date of closing value will not be used.**

## INSPECTION CONTINGENCY

1. Page 9 – Lines 485-494: Amendments to language were made as follows: ☐  
**INSPECTION(S) CONTINGENCY: This contingency only authorizes inspection(s), not testing (see lines 204-222).** This Offer is contingent upon a Wisconsin registered home inspector performing a home inspection of the Property, ~~and an inspection, by a qualified independent inspector, of~~ \_\_\_\_\_ which discloses no defects as defined below. This Offer is further contingent upon a qualified independent inspector [or independent qualified third party] performing an inspection of: \_\_\_\_\_ (List any property components to be separately inspected, e.g., swimming pool, roof, foundation, chimney, etc.) which discloses no defects as defined below. Buyer shall order the inspection(s) and be responsible for all costs of inspection. Buyer may have follow-up inspections recommended in a written report resulting from an authorized inspection provided they occur prior to the deadline specified at line xxx.  
**CAUTION: Buyer should provide sufficient time for the home inspection and/or any specialized inspections, as well as any possible follow-up inspection(s).** This contingency shall be deemed satisfied unless Buyer, within \_\_\_\_\_ days of acceptance, delivers to Seller, and to listing broker if Property is listed, a copy of the inspector's written inspection report(s) and a written notice listing the defect(s) identified in ~~the inspection~~ those report(s) to which Buyer objects (Notice of Defects). For the purposes of this contingency defects do not include structural, mechanical, or other conditions the nature and extent of which buyer had actual knowledge or written notice before signing this Offer. **CAUTION: A proposed amendment is ~~will not~~ satisfy a notice this of defects and will not satisfy this notice requirement.** (See lines 97-110) ~~Buyer shall order the inspection and be responsible for all costs of inspection, including any inspections required by lender or as follow-up inspections to the home inspection.~~

(Mary Pangman Schmitt was excused at 11:44 a.m.)

## **Right to Cure**

1. Page 10 – Lines 495-502: Amendments to language were made as follows:  
RIGHT TO CURE: Seller (shall) (shall not) {STRIKE ONE} have a right to cure defects. (Seller shall have a right to cure if no choice is indicated.) If Seller has right to cure, Seller may satisfy this contingency by: (1) delivering a written notice ~~within 10 days of receipt of Buyer's notice of stating~~ Seller's election to cure defects within 10 days of receipt delivery of Buyer's ~~above a~~ Notice of Defects and ~~(2)~~ curing the defects in a good and workmanlike manner and ~~(3)~~ delivering to Buyer a written report detailing the work done, no later than 3 days prior to closing. This Offer shall be null and void if Buyer makes timely delivery of the ~~a~~ Notice and of Defects and written inspection reports and: (1) Seller does not have a right to cure or (2) Seller has a right to cure but: a) Seller delivers written notice that Seller will not cure or b) Seller does not timely deliver the written notice of election to cure.

## **Defect Defined**

1. Page 10 – Lines 503-508: The Committee moved deleted language below to the body of the Inspection Contingency, see changes, below. "DEFECT" DEFINED: For the purposes of this contingency, a defect is defined as a structural, mechanical or other condition that would have a significant adverse effect on the value of the Property; that would significantly impair the health or safety of future occupants of the Property; or that if not repaired, removed or replaced would significantly shorten or have a significant adverse effect on the expected normal life of the Property. ~~Defects do not include structural, mechanical or other conditions the nature and extent of which Buyer had actual knowledge or written notice before signing this Offer.~~  
☐ **ADDENDA:** The attached \_\_\_\_\_ is/are made part of this Offer.  
ADDITIONAL PROVISIONS/CONTINGENCIES

## **Review of Other Contractual Forms for Revision**

None.

## **Schedule Future Meeting Dates**

The Committee scheduled a meeting to be held Tuesday, September 15, 2009.

## **ADJOURNMENT**

**MOTION:** Michael Gordon moved, seconded by Michael Holloway, to adjourn the meeting at 1:53 p.m. Motion carried unanimously.